

CHAPTER 18

PROGRAMS AND SERVICES REGULATED BY DEPARTMENT ON AGING

S.F. 184

AN ACT relating to programs and services under the purview of the department on aging.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 10A.402, subsection 5, Code 2013, is amended by striking the subsection.

Sec. 2. Section 16.182, subsections 1 and 2, Code 2013, are amended to read as follows:

1. A senior living revolving loan program fund is created within the authority ~~to further the goal of the senior living program as specified in section 249H.2.~~ The moneys in the senior living revolving loan program fund shall be used by the authority for the development and operation of a revolving loan program to provide financing to construct affordable assisted living and service-enriched affordable housing for seniors and persons with disabilities, including through new construction or acquisition and rehabilitation.

2. Moneys ~~received by the authority from the senior living trust fund,~~ transferred by the authority for deposit in the senior living revolving loan program fund, moneys appropriated to the senior living revolving loan program, and any other moneys available to and obtained or accepted by the authority for placement in the senior living revolving loan program fund shall be deposited in the fund. Additionally, payment of interest, recaptures of awards, and other repayments to the senior living revolving loan program fund shall be deposited in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the senior living revolving loan program fund shall be credited to the fund. Notwithstanding section 8.33, moneys that remain unencumbered or unobligated at the end of the fiscal year shall not revert but shall remain available for the same purpose in the succeeding fiscal year.

Sec. 3. Section 16.183, subsection 2, Code 2013, is amended to read as follows:

2. Moneys ~~received by the authority from the senior living trust fund,~~ transferred by the authority for deposit in the home and community-based services revolving loan program fund, moneys appropriated to the home and community-based services revolving loan program, and any other moneys available to and obtained or accepted by the authority for placement in the home and community-based services revolving loan program fund shall be deposited in the fund. Additionally, payment of interest, recaptures of awards, and other repayments to the ~~senior living home and community-based services~~ revolving loan program fund shall be deposited in the fund. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the home and community-based services revolving loan program fund shall be credited to the fund. Notwithstanding section 8.33, moneys that remain unencumbered or unobligated at the end of the fiscal year shall not revert but shall remain available for the same purpose in the succeeding fiscal year.

Sec. 4. Section 22.7, subsection 62, Code 2013, is amended to read as follows:

62. Records of maintained by the department on aging pertaining to clients served by the prevention of elder abuse, neglect, and exploitation program or office of long-term care ombudsman that disclose the identity of a complainant, resident, tenant, or individual receiving services provided by the department on aging, an area agency on aging, or the office of long-term care ombudsman, unless disclosure is otherwise allowed under section 231.42, subsection 12, paragraph "a".

Sec. 5. Section 135C.1, Code 2013, is amended by adding the following new subsections:
NEW SUBSECTION. 1A. "Certified volunteer long-term care ombudsman" means a volunteer long-term care ombudsman certified pursuant to section 231.45.

NEW SUBSECTION. 13A. "Office of long-term care ombudsman" means the office of long-term care ombudsman established pursuant to section 231.42.

NEW SUBSECTION. 20A. "State long-term care ombudsman" means the state long-term care ombudsman appointed pursuant to section 231.42.

Sec. 6. Section 135C.11, subsection 2, Code 2013, is amended to read as follows:

2. The procedure governing hearings authorized by this section shall be in accordance with the rules promulgated by the department. A full and complete record shall be kept of all proceedings, and all testimony shall be reported but need not be transcribed unless judicial review is sought pursuant to section 135C.13. Copies of the transcript may be obtained by an interested party upon payment of the cost of preparing the copies. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the department's rules. The director may, after advising the ~~resident advocate committee established pursuant to section 135C.25~~ certified volunteer long-term care ombudsman, either proceed in accordance with section 135C.30, or remove all residents and suspend the license or licenses of any health care facility, prior to a hearing, when the director finds that the health or safety of residents of the health care facility requires such action on an emergency basis. The fact that ~~no resident advocate committee~~ a certified volunteer long-term care ombudsman has not been appointed for a particular facility shall not bar the director from exercising the emergency powers granted by this subsection with respect to that facility.

Sec. 7. Section 135C.13, Code 2013, is amended to read as follows:

135C.13 Judicial review.

Judicial review of any action of the director may be sought in accordance with the terms of the Iowa administrative procedure Act, chapter 17A. Notwithstanding the terms of ~~said Act chapter 17A~~, petitions for judicial review may be filed in the district court of the county where the facility or proposed facility is located, and pending final disposition of the matter the status quo of the applicant or licensee shall be preserved except when the director, with the advice and consent of the ~~resident advocate committee established pursuant to section 135C.25~~ certified volunteer long-term care ombudsman, determines that the health, safety or welfare of the residents of the facility is in immediate danger, in which case the director may order the immediate removal of such residents. The fact that ~~no resident advocate committee~~ a certified volunteer long-term care ombudsman has not been appointed for a particular facility shall not bar the director from exercising the emergency powers granted by this ~~subsection~~ section with respect to that facility.

Sec. 8. Section 135C.14, subsection 8, paragraph d, Code 2013, is amended to read as follows:

d. The notification of ~~resident advocate committees~~ certified volunteer long-term care ombudsmen by the department of all complaints relating to health care facilities and the involvement of the ~~resident advocate committees~~ certified volunteer long-term care ombudsmen in resolution of the complaints.

Sec. 9. Section 135C.20A, subsection 2, Code 2013, is amended to read as follows:

2. The report card form shall be developed by the department in cooperation with representatives of the department on aging, the state long-term care ~~resident's advocate ombudsman~~, representatives of ~~resident advocate committees~~ certified volunteer long-term care ombudsmen, representatives of protection and advocacy entities, consumers, and other interested persons.

Sec. 10. Section 135C.20B, subsection 2, paragraph c, Code 2013, is amended to read as follows:

c. Any information submitted by ~~care review committee members~~ or residents with regard to the quality of care of the facility.

Sec. 11. Section 135C.37, Code 2013, is amended to read as follows:

135C.37 Complaints alleging violations — confidentiality.

A person may request an inspection of a health care facility by filing with the department, ~~resident advocate committee of the facility~~ certified volunteer long-term care ombudsman, or the office of long-term care ~~resident's advocate as established pursuant to section 231.42~~ ombudsman, a complaint of an alleged violation of applicable requirements of this chapter or the rules adopted pursuant to this chapter. A person alleging abuse or neglect of a resident

with a developmental disability or with mental illness may also file a complaint with the protection and advocacy agency designated pursuant to section 135B.9 or section 135C.2. A copy of a complaint filed with ~~the resident advocate committee~~ a certified volunteer long-term care ombudsman or the office of long-term care ~~resident's advocate ombudsman~~ shall be forwarded to the department. The complaint shall state in a reasonably specific manner the basis of the complaint, and a statement of the nature of the complaint shall be delivered to the facility involved at the time of the inspection. The name of the person who files a complaint with the department, ~~resident advocate committee~~ certified volunteer long-term care ombudsman, or the office of long-term care ~~resident's advocate ombudsman~~ shall be kept confidential and shall not be subject to discovery, subpoena, or other means of legal compulsion for its release to a person other than department employees involved in the investigation of the complaint.

Sec. 12. Section 135C.38, subsection 1, paragraphs a and c, Code 2013, are amended to read as follows:

a. Upon receipt of a complaint made in accordance with section 135C.37, the department or ~~resident advocate committee~~ certified volunteer long-term care ombudsman shall make a preliminary review of the complaint. Unless the department or ~~committee~~ certified volunteer long-term care ombudsman concludes that the complaint is intended to harass a facility or a licensee or is without reasonable basis, the department or ~~committee~~ certified volunteer long-term care ombudsman shall make or cause to be made an on-site inspection of the health care facility which is the subject of the complaint within the time period determined pursuant to the following guidelines, which period shall commence on the date of receipt of the complaint:

(1) For nursing facilities, an on-site inspection shall be initiated as follows:

(a) Within two working days for a complaint determined by the department or ~~committee~~ certified volunteer long-term care ombudsman to be an alleged immediate jeopardy situation.

(b) Within ten working days for a complaint determined by the department or ~~committee~~ certified volunteer long-term care ombudsman to be an alleged high-level, nonimmediate jeopardy situation.

(c) Within forty-five calendar days for a complaint determined by the department or ~~committee~~ certified volunteer long-term care ombudsman to be an alleged nonimmediate jeopardy situation, other than a high-level situation.

(2) For all other types of health care facilities, an on-site inspection shall be initiated as follows:

(a) Within two working days for a complaint determined by the department or ~~committee~~ certified volunteer long-term care ombudsman to be an alleged immediate jeopardy situation.

(b) Within twenty working days for a complaint determined by the department or ~~committee~~ certified volunteer long-term care ombudsman to be an alleged high-level, nonimmediate jeopardy situation.

(c) Within forty-five calendar days for a complaint determined by the department or ~~committee~~ certified volunteer long-term care ombudsman to be an alleged nonimmediate jeopardy situation, other than a high-level situation.

c. The department may refer to the ~~resident advocate committee~~ certified volunteer long-term care ombudsman of a facility any complaint received by the department regarding that facility, for initial evaluation and appropriate action by the ~~committee~~ certified volunteer long-term care ombudsman.

Sec. 13. Section 135C.38, subsection 2, paragraphs a and d, Code 2013, are amended to read as follows:

a. The complainant shall be promptly informed of the result of any action taken by the department or ~~committee~~ certified volunteer long-term care ombudsman in the matter. The complainant shall also be notified of the name, address, and telephone number of the designated protection and advocacy agency if the alleged violation involves a facility with one or more residents with developmental disabilities or mental illness.

d. A person who is dissatisfied with any aspect of the department's handling of the complaint may contact the office of long-term care ~~resident's advocate, established~~

~~pursuant to section 231.42~~ ombudsman, or may contact the protection and advocacy agency designated pursuant to section 135C.2 if the complaint relates to a resident with a developmental disability or a mental illness.

Sec. 14. Section 135C.38, subsections 3 and 4, Code 2013, are amended to read as follows:

3. An inspection made pursuant to a complaint filed under section 135C.37 need not be limited to the matter or matters included in the complaint. However, the inspection shall not be a general inspection unless the complaint inspection coincides with a scheduled general inspection or unless in the course of the complaint investigation a violation is evident to the inspector. Upon arrival at the facility to be inspected, the inspector shall show identification to the person in charge of the facility and state that an inspection is to be made, before beginning the inspection. Upon request of either the complainant or the department or ~~committee~~ certified volunteer long-term care ombudsman, the complainant or the complainant's representative or both may be allowed the privilege of accompanying the inspector during any on-site inspection made pursuant to this section. The inspector may cancel the privilege at any time if the inspector determines that the privacy of any resident of the facility to be inspected would otherwise be violated. The protection and dignity of the resident shall be given first priority by the inspector and others.

4. If upon an inspection of a facility by its ~~resident advocate committee~~ certified volunteer long-term care ombudsman pursuant to this section, the ~~committee certified volunteer long-term care ombudsman~~ advises the department of any circumstance believed to constitute a violation of this chapter or of any rule adopted pursuant to it, the ~~committee certified volunteer long-term care ombudsman~~ shall similarly advise the facility at the same time. If the facility's licensee or administrator disagrees with the conclusion of the ~~committee certified volunteer long-term care ombudsman~~ regarding the supposed violation, an informal conference may be requested and if requested shall be arranged by the department as provided in section 135C.42 before a citation is issued. If the department thereafter issues a citation pursuant to the ~~committee's~~ certified volunteer long-term care ombudsman's finding, the facility shall not be entitled to a second informal conference on the same violation and the citation shall be considered affirmed. The facility cited may proceed under section 135C.43 if it so desires.

Sec. 15. Section 225C.4, subsection 1, paragraph m, Code 2013, is amended to read as follows:

m. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in cooperation with the judicial branch and the ~~resident advocate committees appointed for health care facilities~~ certified volunteer long-term care ombudsmen certified pursuant to section 135C.25 ~~231.45~~.

Sec. 16. Section 227.2, subsection 2, Code 2013, is amended to read as follows:

2. A copy of the written report prescribed by subsection 1 shall be furnished to the county board of supervisors, to the county mental health and intellectual disability coordinating board or to its advisory board if the county board of supervisors constitutes ex officio the coordinating board, to the administrator of the county care facility inspected and to its ~~resident advocate committee~~ certified volunteer long-term care ombudsman, and to the department on aging.

Sec. 17. Section 227.4, Code 2013, is amended to read as follows:

227.4 Standards for care of persons with mental illness or an intellectual disability in county care facilities.

The administrator, in cooperation with the department of inspections and appeals, shall recommend and the mental health and disability services commission created in section 225C.5 shall adopt standards for the care of and services to persons with mental illness or an intellectual disability residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that persons with mental illness or an intellectual disability who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for

productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county mental health and developmental disabilities regional planning councils, and county care facility ~~resident advocate committees~~ certified volunteer long-term care ombudsmen to assist in the establishment of standards.

Sec. 18. Section 231.4, subsection 1, Code 2013, is amended to read as follows:

1. For purposes of this chapter, unless the context otherwise requires:

a. “Administrative action” means an action or decision made by an owner, employee, or agent of a long-term care facility, assisted living program, elder group home, or by a governmental agency, which affects the service provided to residents or tenants covered in this chapter.

b. “Assisted living program” means a program which provides assisted living as defined pursuant to section 231C.2 and which is certified under chapter 231C.

c. “Certified volunteer long-term care ombudsman” or “certified volunteer” means a volunteer long-term care ombudsman certified pursuant to section 231.45.

e. ~~d.~~ “Commission” means the commission on aging.

~~d.~~ e. “Department” means the department on aging.

e. ~~f.~~ “Director” means the director of the department on aging.

f. ~~g.~~ “Elder group home” means elder group home as defined in section 231B.1 which is certified under chapter 231B.

g. ~~h.~~ “Equivalent support” means in-kind contributions of services, goods, volunteer support time, administrative support, or other support reasonably determined by the department as equivalent to a dollar amount.

~~h.~~ i. “Federal Act” means the Older Americans Act of 1965, 42 U.S.C. § 3001 et seq., as amended.

~~i.~~ j. “Home and community-based services” means a continua of services available in an individual’s home or community which include but are not limited to case management, homemaker, home health aide, personal care, adult day, respite, home delivered meals, nutrition counseling, and other medical and social services which contribute to the health and well-being of individuals and their ability to reside in a home or community-based care setting.

~~j.~~ k. “Legal representative” means a tenant’s legal representative as defined in section 231B.1 or 231C.2, or a guardian, conservator, or attorney in fact of a resident.

~~k.~~ l. “Long-term care facility” means a long-term care unit of a hospital or a facility licensed under section 135C.1 whether the facility is public or private.

~~l.~~ m. “Long-term care ombudsman” means an advocate for residents and tenants of long-term care facilities, assisted living programs, and elder group homes who carries out duties as specified in this chapter.

~~m.~~ n. “Older individual” means an individual who is sixty years of age or older.

~~n.~~ o. “Options counseling” means a service involving an interactive process, which may include a needs assessment, directed by the recipient individual and which may include other participants of the individual’s choosing and the individual’s legal representative, in which the individual receives guidance to make informed choices about long-term living services and supports in order to sustain independent living.

~~o.~~ p. “Resident” means a resident or tenant of an individual residing in a long-term care facility, assisted living program, or elder group home, excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

~~p.~~ q. “Tenant” means an individual who receives assisted living services through an assisted living program or an individual who receives elder group home services through an elder group home.

~~q.~~ r. “Unit of general purpose local government” means the governing body of a city, county, township, metropolitan area, or region within the state that has a population of one hundred thousand or more, that is recognized for areawide planning, and that functions as a political

subdivision of the state whose authority is general and not limited to only one function or combination of related functions, or a tribal organization.

Sec. 19. Section 231.23A, subsection 2, Code 2013, is amended to read as follows:
2. The ~~senior internship~~ older American community service employment program.

Sec. 20. Section 231.23A, subsection 7, Code 2013, is amended by striking the subsection.

Sec. 21. Section 231.32, Code 2013, is amended by adding the following new subsection:
NEW SUBSECTION. 5. Upon designation, an area agency on aging shall be considered an instrumentality of the state and shall adhere to all state and federal mandates applicable to an instrumentality of the state.

Sec. 22. Section 231.33, Code 2013, is amended by adding the following new subsection:
NEW SUBSECTION. 21. Comply with all applicable requirements of the Iowa public employees' retirement system established pursuant to chapter 97B. ¹

Sec. 23. Section 231.41, Code 2013, is amended to read as follows:
231.41 Purpose.

The purpose of this subchapter is to establish and provide for the operation of the office of long-term care ~~resident's advocate~~ ombudsman; to carry out, through the office, a state long-term care ombudsman program within the department in accordance with the requirements of the federal Act; and to adopt the supporting federal regulations and guidelines for its operation.

Sec. 24. Section 231.42, Code 2013, is amended to read as follows:

231.42 Office of long-term care ~~resident's advocate~~ ombudsman — duties — penalties for violations.

1. *Office established.* The office of long-term care ~~resident's advocate~~ ombudsman is established within the department, in accordance with ~~section 712 of the federal Act, as codified at 42 U.S.C. § 3058g~~ and state law. The office shall consist of the state long-term care ~~resident's advocate and~~ ombudsman, any local long-term care ~~resident's advocates~~ ombudsmen, and any certified volunteer long-term care ~~ombudsmen~~.

2. *State long-term care ~~resident's advocate~~ ombudsman.* The director of the department shall appoint the state long-term care ~~resident's advocate~~ ombudsman who shall do all of the following:

a. Establish and implement a statewide confidential uniform reporting system for receiving, analyzing, referring, investigating, and resolving complaints about administrative actions and the health, safety, welfare, and rights of residents or tenants of long-term care facilities, assisted living programs, and elder group homes, excluding facilities licensed primarily to serve persons with an intellectual disability or mental illness.

b. Publicize the office of long-term care ~~resident's advocate~~ ombudsman and provide information and education to consumers, the public, and other agencies about issues related to long-term care in Iowa.

c. Monitor the development and implementation of federal, state, and local laws, regulations, and policies that relate to long-term care in Iowa.

d. Annually report to the governor and general assembly on the activities of the office and make recommendations for improving the health, safety, welfare, and rights of residents and tenants of long-term care facilities, assisted living programs, and elder group homes.

e. Cooperate with persons and public or private agencies with regard to, and participate in, inquiries, meetings, or studies that may lead to improvements in the health, safety, welfare, and rights of residents and tenants ~~and the functioning of long-term care facilities, assisted living programs, and elder group homes.~~

f. ~~Recruit, train, educate, support, and monitor volunteers associated with the office.~~

¹ See chapter 138, §48, 54, 55 herein

3. *Local long-term care resident's advocates ombudsmen.* The local long-term care resident's advocates ombudsmen established pursuant to this section shall do all of the following:

a. Accept, investigate, verify, and work to resolve complaints, ~~whether reported to or initiated by a long-term care resident's advocate~~, relating to any action or inaction that may adversely affect the health, safety, welfare, or rights of residents or tenants of a long-term care facility, assisted living program, or elder group home.

b. Provide information about long-term care, the rights of residents and tenants, payment sources for care, and selection of a long-term care facility, assisted living program, or elder group home to providers, consumers, family members, volunteers, and the public.

c. Make referrals to appropriate licensing, certifying, and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions.

d. Assist in the ~~recruitment, training, and education, support, and monitoring of certified~~ volunteers associated with the office of the long-term care resident's advocate ombudsman.

e. Make noncomplaint-related visits to long-term care facilities, assisted living programs, and elder group homes to observe daily routines, meals, and activities, and work to resolve complaints if any are identified during these visits.

4. *Referrals of abuse, neglect, or exploitation.*

a. If abuse, neglect, or exploitation of a resident or tenant of a long-term care facility, assisted living program, or elder group home is suspected, the state or a local long-term care resident's advocate ombudsman shall, with the permission of the resident or tenant as applicable under federal law, make an immediate referral to the department of inspections and appeals, or the department of human services as applicable, and to, the department on aging, or the appropriate law enforcement agency, as applicable. The state or a local long-term care resident's advocate ombudsman shall cooperate, if requested, with the department of inspections and appeals, department of human services, department on aging, or any law enforcement agency pursuant to any investigation of such abuse, neglect, or exploitation.

b. If the department of inspections and appeals responds to a complaint referred by the state or a local long-term care resident's advocate ombudsman against a long-term care facility, assisted living program, elder group home, or an employee of such entity, copies of related inspection reports, plans of correction, and notice of any citations and sanctions levied against the facility, program, or home shall be forwarded to the office of the long-term care resident's advocate ombudsman.

5. *Access to long-term care facility, assisted living program, or elder group home and residents and tenants.* The state or a local long-term care resident's advocate ombudsman or a trained certified volunteer may enter any long-term care facility, assisted living program, or elder group home at any time with or without prior notice or complaint and shall be granted access to residents and tenants at all times for the purpose of carrying out the duties specified in this section. As used in this section, "access" means the right to do all of the following:

a. Enter any long-term care facility, assisted living program, or elder group home and provide identification.

b. Seek consent from the resident, tenant, or legal representative to communicate privately and without restriction with any resident, or tenant, or legal representative.

c. Communicate privately and without restriction with any resident, tenant, or legal representative, or other representative who consents to communication.

d. Review the clinical medical, social, or other records of a resident or tenant.

e. Observe all resident or tenant areas of a long-term care facility, assisted living program, or housing establishment elder group home except the living area of any resident or tenant who protests the observation.

6. *Access to medical and personal social records.*

a. The state or a local long-term care resident's advocate ombudsman shall have access to the medical and personal social records of an individual who is a resident or tenant of a long-term care facility, assisted living program, or elder group home retained by the facility, program, or home, if any of the following applies:

(1) The state or local long-term care ombudsman or certified volunteer long-term care ombudsman has the permission of the resident or tenant, or the legal representative of the resident or tenant.

(2) The resident or tenant is unable to consent to the access and has no legal representative.

(3) Access to the records is necessary to investigate a complaint if all of the following apply:

(a) A legal representative of the resident or tenant refuses to give the permission.

(b) The state or local long-term care ombudsman or a certified volunteer long-term care ombudsman has reasonable cause to believe that the legal representative is not acting in the best interest of the resident or tenant.

(c) The local long-term care ombudsman or a certified volunteer long-term care ombudsman obtains the approval of the state long-term care ombudsman.

b. Records may be reproduced by the state or a local long-term care ~~resident's advocate~~ ombudsman.

c. Upon request of the state or a local long-term care ~~resident's advocate~~ ombudsman, a long-term care facility, assisted living program, or elder group home shall provide the name, address, and telephone number of the legal representative or next of kin of any resident or tenant.

d. A long-term care facility, assisted living program, or elder group home or personnel of such a facility, program, or home who discloses records in compliance with this section and the procedures adopted pursuant to this section shall not be liable for such disclosure.

7. *Access to administrative records.*

a. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to the administrative records, policies, and documents of the long-term care facility, assisted living program, or elder group home, which are accessible to residents, tenants, or the general public.

b. Pursuant to the federal Act, the state or a local long-term care ombudsman or a certified volunteer shall have access to, and upon request, copies of, all licensing and certification records maintained by the state with respect to a long-term care facility, assisted living program, or elder group home.

7. ~~8.~~ *Interference prohibited — penalties.*

a. An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home who intentionally prevents, interferes with, or attempts to impede the work of the state or a local long-term care ~~resident's advocate~~ ombudsman or a certified volunteer is subject to a penalty imposed by the director of not more than one thousand five hundred dollars for each violation. If the director imposes a penalty for a violation under this paragraph, no other state agency shall impose a penalty for the same interference violation. Any moneys collected pursuant to this subsection shall be deposited in the general fund of the state.

b. The office of the long-term care ~~resident's advocate~~ ombudsman shall adopt rules specifying procedures for notice and appeal of penalties imposed pursuant to this subsection.

c. The director, in consultation with the office of the long-term care ~~resident's advocate~~ ombudsman, shall notify the county attorney of the county in which the long-term care facility, assisted living program, or elder group home is located, or the attorney general, of any violation of this subsection.

8. ~~9.~~ *Retaliation prohibited — penalties.* An officer, owner, director, or employee of a long-term care facility, assisted living program, or elder group home shall not retaliate against any person for having filed a complaint with, or provided information to, the state or a local long-term care ~~resident's advocate~~ ombudsman or a certified volunteer. A person who retaliates or discriminates in violation of this subsection is guilty of a simple misdemeanor.

9. ~~10.~~ *Change in operations.* A long-term care facility, assisted living program, or elder group home shall inform the office of the long-term care ~~resident's advocate~~ ombudsman in writing at least thirty days prior to any change in operations, programs, services, licensure, or certification that affects residents or tenants, including but not limited to the intention to close, decertify, or change ownership. In an emergency situation, or when a long-term care facility, assisted living program, or elder group home is evacuated, the department of inspections and appeals shall notify the office of the ~~state long-term care~~ ~~resident's advocate~~ ombudsman.

~~10. 11. Immunity.~~ The state or a local long-term care ~~resident's advocate ombudsman, certified volunteer,~~ or any representative of the office participating in the good faith performance of their official duties shall have immunity from any civil or criminal liability that otherwise might result by reason of taking, investigating, or pursuing a complaint under this section.

~~11. 12. Confidentiality.~~

a. Information relating to any complaint made to or investigation by the state or a local long-term care resident's advocate ombudsman or certified volunteer that discloses the identity of a complainant, resident, or tenant, or; information related to a resident's or tenant's personal social or medical records,; or files maintained by the state long-term care ombudsman program that disclose the identity of a complainant, resident, or tenant, shall remain confidential except as follows and shall not be disclosed unless any of the following applies:

~~a. If permission is granted by the director in consultation with the state long-term care resident's advocate.~~

~~b. If disclosure is authorized in writing by the complainant and the resident, tenant, or the individual's guardian or legal representative.~~

~~c. If disclosure is necessary for the provision of services to a resident or tenant, or the resident or tenant is unable to express written or oral consent.~~

~~d. If ordered by a court.~~

(1) The complainant, resident, tenant, or a legal representative consents to the disclosure and the consent is given in writing.

(2) The complainant, resident, or tenant gives consent orally and the consent is documented contemporaneously in a writing made by the state long-term care ombudsman or a local long-term care ombudsman.

(3) The disclosure is required by a court order.

b. The department shall adopt rules pursuant to chapter 17A to administer this subsection.

~~12. 13. Posting of state long-term care resident's advocate ombudsman information.~~ Every long-term care facility, assisted living program, and elder group home shall post information in a prominent location that includes the name, address, and telephone number, and a brief description of the services provided by the office of the long-term care ~~resident's advocate ombudsman~~. The information posted shall be approved or provided by the office of the long-term care ~~resident's advocate ombudsman~~.

Sec. 25. Section 231.45, Code 2013, is amended to read as follows:

231.45 Certified volunteer long-term care ~~resident's advocate ombudsman~~ program.

1. The department shall establish a certified volunteer long-term care ~~resident's advocate ombudsman~~ program in accordance with the federal Act to provide assistance to the state and local long-term care ~~resident's advocates ombudsmen~~.

2. The department shall develop and implement a certification process for volunteer long-term care ~~resident's advocates ombudsmen~~ including but not limited to an application process, provision for background checks, classroom or on-site training, orientation, and continuing education.

3. ~~The~~ Unless specifically excluded, the provisions of section 231.42 relating to local long-term care ~~resident's advocates ombudsmen~~ shall apply to certified volunteer long-term care ~~resident's advocates ombudsmen~~.

4. The department shall adopt rules pursuant to chapter 17A to administer this section.

Sec. 26. Section 231.51, subsections 1, 3, and 4, Code 2013, are amended to read as follows:

1. The department shall direct and administer the older American community service employment program as authorized by the federal Act in coordination with the department of workforce development ~~and the economic development authority~~.

3. Funds appropriated to the department from the United States department of labor shall be distributed to local projects subgrantees in accordance with federal requirements.

4. The department shall require such uniform reporting and financial accounting by ~~area agencies on aging and local projects~~ subgrantees as may be necessary to fulfill the purposes of this section.

Sec. 27. Section 231.53, Code 2013, is amended to read as follows:

231.53 Coordination with Workforce Investment Act.

The ~~senior internship~~ older American community service employment program shall be coordinated with the federal Workforce Investment Act administered by the department of workforce development.

Sec. 28. Section 231.56A, Code 2013, is amended to read as follows:

231.56A Prevention of elder abuse, neglect, and exploitation program.

1. The department shall administer the prevention of elder abuse, neglect, and exploitation program in accordance with the requirements of the federal Act. The purpose of the program is to carry out activities for intervention in, investigation of, and response to elder abuse, neglect, and exploitation including financial exploitation.

~~2. The target population of the program shall be any older individual residing in Iowa who is at risk of or who is experiencing abuse, neglect, or exploitation including financial exploitation.~~

~~3. The contractor implementing the program shall identify emergency shelter and support services, state funding, outcomes, reporting requirements, and approved community resources from which services may be obtained.~~

~~4. The contractor shall implement the program and shall coordinate the provider network through the use of referrals or other engagement of community resources to provide services to older individuals.~~

~~5.~~ 2. The department shall adopt rules to implement this section.

Sec. 29. Section 231.64, Code 2013, is amended to read as follows:

231.64 Aging and disability resource center program.

1. The aging and disability resource center ~~program~~ shall be administered by the department consistent with the federal Act. The department shall designate participating entities to establish a coordinated system for providing all of the following:

a. Comprehensive information, referral, and assistance regarding the full range of available public and private long-term care programs, options, service providers, and resources within a community, including information on the availability of integrated long-term care.

b. Personal Options counseling to assist individuals in assessing their existing or anticipated long-term care needs and developing and implementing a plan for long-term care designed to meet their specific needs and circumstances. The plan for long-term care may include support with person-centered care transitions to assist consumers and family caregivers with transitions between home and care settings.

c. Consumer access to the range of publicly-supported long-term care programs for which consumers may be eligible, by serving as a convenient point of entry for such programs.

2. The aging and disability resource center ~~program~~ shall assist older individuals, persons with disabilities age eighteen or older, family caregivers, and people who inquire about or request assistance on behalf of members of these groups, as they seek long-term care living services and community supports.

Sec. 30. Section 231B.1, subsection 10, Code 2013, is amended to read as follows:

10. "*Tenant advocate*" means the office of the long-term care ~~resident's advocate~~ ombudsman established in section 231.42.

Sec. 31. Section 231C.2, subsection 15, Code 2013, is amended to read as follows:

15. "*Tenant advocate*" means the office of long-term care ~~resident's advocate~~ ombudsman established in section 231.42.

Sec. 32. Section 235B.6, subsection 2, paragraph e, subparagraph (10), Code 2013, is amended to read as follows:

(10) The state or a local long-term care ~~resident's advocate~~ ombudsman if the victim resides in ~~a long-term care facility~~ or the alleged perpetrator is an employee of a long-term care facility as defined in section 231.4.

Sec. 33. Section 669.14, subsection 12, Code 2013, is amended to read as follows:

12. Any claim based upon the actions of a ~~resident advocate committee member~~ certified volunteer long-term care ombudsman in the performance of duty if the action is undertaken and carried out in good faith.

Sec. 34. REPEAL. Sections 135C.25, 231.44, 231.52, and 231B.19, Code 2013, are repealed.

Sec. 35. REPEAL. Chapter 249H, Code 2013, is repealed.

Approved April 5, 2013